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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 *****

11 HECTOR CLEMENTE and TINA
12 CLEMENTE, individually and as natural
13 parents and legal guardians of EZRA
14 CLEMENTE, a Minor,

15 Plaintiffs,

16 v.

17 AMANDA ELIZABETH LANHAM, an
18 individual; POSTMATES, LLC, a Foreign
19 Limited Liability Corporation; DOES I
through X, inclusive; and ROE
CORPORATIONS I through X, inclusive,

20 Defendants.

CASE NO.: 2:22-cv-02169 -RFB-BNW

21
22 **APPLICATION FOR EXTENSION OF TIME TO SERVE DEFENDANT**

23 Plaintiffs HECTOR CLEMENTE, TINA CLEMENTE and EZRA CLEMENTE, a minor,
24 by and through their attorney of record, Eric Roy, Esq. and Stephen K. Lewis Esq., of the ERIC
25 ROY LAW FIRM, and hereby moves this Honorable Court for an Order for extension of time to
26 effectuate service of Plaintiffs' Complaint upon Defendant AMANDA ELIZABETH LANHAM.
27
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1 This application is made and based upon the pleadings and papers on file herein, the
2 following points and authorities, and any oral argument that may be had at the time of the
3 hearing on this matter.

4 DATED this 14th day of March, 2023.

6 **ERIC ROY LAW FIRM**

7
8 /s/ Stephen K. Lewis

9 Eric Roy, Esq.

10 Nevada Bar No. 11869

11 Stephen K. Lewis, Esq.

12 Nevada Bar No. 7064

13 703 South Eighth Street

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15 *Attorneys for Plaintiffs*

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AFFIDAVIT OF STEPHEN K. LEWIS, ESQ.

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

I, affiant, Stephen K. Lewis Esq., declare as follows:

1. I am an attorney, duly licensed to practice law in the State of Nevada.

2. I am the attorney of record for Plaintiffs.

3. The above-entitled action was commenced by filing of a Complaint on December 2, 2022 in the Eighth District Court, Clark County, Nevada.

4. The Summons directed to Defendant AMANDA ELIZABETH LANHAM was issued by the clerk on December 2, 2022.

5. That on or about December 5, 2022, our office forwarded the Summons and Complaint to Junes Legal Service, Inc. in order to perfect service on Defendant AMANDA ELIZABETH LANHAM.

6. That Defendant POSTMATES, LLC filed a Petition for Removal to this Court on December 29, 2022.

7. That as required by FRCP 4(m), the Complaint and Summons must be served within 90 days of the Removal, and that the time of service will expire on the 28th day of March, 2023, unless an Order granting an Extension of time within which to serve is entered;

8. That Ron Kiniry has provided a Declaration of Due Diligence based on his attempts to locate Defendant AMANDA ELIZABETH LANHAM. *The Declaration of Due Diligence is attached as Exhibit 1.*

9. That Junes Legal Service did a ‘skip trace’ to locate an address for Defendant, AMANDA ELIZABETH LANHAM, and it also engaged in numerous other searches in an

1 attempt to locate Defendant AMANDA ELIZABETH LANHAM. Those efforts are more
2 particularly described in the Declaration of Due Diligence which is attached hereto and marked
3 **Exhibit “1”**.

4 10. That Junes Legal Service’s skip trace resulted in Nevada Department of Motor
5 Vehicle Division confirming a Nevada Driver’s License for Defendant AMANDA ELIZABETH
6 LANHAM. Further, inquires found a Nevada Vehicle Registration being current and active for
7 Defendant AMANDA ELIZABETH LANHAM.
8

9 11. That pursuant to this Court’s Order of January 25, 2023, I requested Defendant
10 AMANDA ELIZABETH LANHAM’s email address from counsel for Defendant POSTMATES,
11 LLC, on January 31, 2023.
12

13 12. That Defendant, POSTMATES, LLC produced their Initial Disclosure of
14 Documents on February 8, 2023, however, did not disclose any documents.
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16 13. That on February 24, 2023, I emailed counsel for Defendant POSTMATES, LLC
17 again requesting AMANDA ELIZABETH LANHAM’s email address, and have yet to receive a
18 response to either email. *(See email chain, attached hereto as Exhibit 2.)*

19 14. That my office was able to locate two YouTube accounts belonging to Defendant
20 AMANDA ELIZABETH LANHAM, under the names: @MandeeHops and
21 @mandeehopspartdeux5612.
22

23 15. That an Instagram account was located for Defendant AMANDA ELIZABETH
24 LANHAM under user: “hopsmandee” and “mandeelanham”.
25

26 16. That a Facebook account was located for Defendant AMANDA ELIZABETH
27 LANHAM under <https://www.facebook.com/amanda.lanham.52?mibextid=LQQJ4d>.
28

1 17. That a possible email account has been located for Defendant AMANDA
2 ELIZABETH LANHAM of alanham@aol.com.

3 18. That my office has forwarded this information to Junes Legal Service as
4 additional methods of locating and serving Defendant AMANDA ELIZABETH LANHAM.

5 19. Therefore, the Plaintiffs desire an Order allowing Plaintiffs an extension of time
6 to serve Defendant AMANDA ELIZABETH LANHAM of an additional sixty (60) days.
7

8 20. The foregoing matters are to the best of my information, knowledge and belief,
9 true and correct.

10 Further, affiant sayeth not.

11 DATED this 13th day of March, 2023.

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15 Stephen K. Lewis Esq.
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POINTS AND AUTHORITIES

I.

FACTS

Plaintiffs filed a Complaint on December 2, 2022 in the Eighth District Court, Clark County, Nevada. Defendant POSTMATES, LLC filed a Petition for Removal to this Court on December 29, 2022.

Robert Kiniry executed a Declaration of Due Diligence after his attempts to locate and serve Defendant AMANDA ELIZABETH LANHAM, **attached as Exhibit 1**. As declared in the Declaration of Due Diligence, Defendant AMANDA ELIZABETH LANHAM has a current Nevada Driver's License. Further inquiry found a current Nevada Vehicle Registration in Las Vegas, Nevada. Plaintiffs have also discovered social media accounts for Defendant AMANDA ELIZABETH LANHAM and has forwarded this information on to Junes Legal Service as alternative means of serving Defendant AMANDA ELIZABETH LANHAM. This litigation must be allowed to commence with Defendant AMANDA ELIZABETH LANHAM and therefore, Plaintiffs submit this Ex Parte Application for extension of time to serve Defendant.

II.

LEGAL ARGUMENT

Plaintiffs Should Be Allowed an Extension of Sixty (60) Days to Effectuate Service Pursuant to FRCP 4, FRCP 6(b)(1)(A)

A. Federal Rules of Civil Procedure Rule 4

FRCP 4(c)(1) – Summons provides:

In General. A summons must be served with a copy of the complaint. The plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.

FRCP 4(m) provides:

“TIME LIMIT FOR SERVICE. If a defendant is not served within 90 days after the complaint is filed....”

Courts have broad discretion to extend time for service under [Federal Rule of Civil Procedure 4\(m\)](#). *Efaw v. Williams*, [473 F.3d 1038, 1041](#) (9th Cir. 2003). The Supreme Court has stated that the 90-day period for service contained in [FRCP 4\(m\)](#) “operates not as an outer limit subject to reduction, but as an irreducible allowance.” *Henderson v. United States*, [517 U.S. 654, 661](#) (1996). Moreover, if the plaintiff shows good cause for the failure to effect service within the 90-day window, “the court must extend the time for service for an appropriate period.” [Fed. R. Civ. P. 4\(m\)](#). *White v. Las Vegas Metro. Police Dep’t*, Case No.: 2:19-cv-00386-GMN-NJK, at *2 (D. Nev. Dec. 18, 2019)

Courts in this District recognize that [FRCP 4\(m\)](#) “authorizes the court to relieve a plaintiff of the consequences of an application of [[Rule 4\(m\)](#)] even if there is no good cause shown.” *Fisher v. TheVegasPackage.com, Inc.*, No. 2:19-cv-01613-JAD-VCF, [2019 WL 6828295, at *1](#) (D. Nev. Dec. 12, 2019) (quoting [Fed. R. Civ. P. 4\(m\)](#), Advisory Committee Notes, 1993 Amendments). *White v. Las Vegas Metro. Police Dep’t*, Case No.: 2:19-cv-00386-GMN-NJK, at *3 (D. Nev. Dec. 18, 2019)

Here, Defendants POSTMATES, LLC filed its Petition for Removal on December 29, 2022. Accordingly, the 90-day period tolls on March 28, 2023. Therefore, Plaintiffs request for an extension of time is before the deadline as required by FRCP 6.

B. Federal Rules of Civil Procedure 6(b)(1)(A)

“EXTENDING TIME.

(1) *In General*. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires;” *Fed. R. Civ. P. 6*

1 As previously stated Plaintiffs are requesting an extension in time to serve Defendant
2 AMANDA ELIZABETH LANHAM prior to the March 28, 2023 to exhaust additional possible
3 avenues of service.

4 **CONCLUSION**

5 It is respectfully submitted that Plaintiffs request for extension of time is based upon "good
6 cause," asserts a reasonable basis, has been shown above and should be granted by this Court.

7 DATED this 13th day of March, 2023.

8 **ERIC ROY LAW FIRM**

9 

10 Eric Roy, Esq.
11 Nevada Bar No. 11869
12 Stephen K. Lewis, Esq.
13 Nevada Bar No. 7064
14 703 South Eighth Street
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16 *Attorneys for Plaintiffs*

17 **ORDER**

18 **IT IS SO ORDERED**

19 **DATED:** 4:32 pm, March 15, 2023

20 

21 **BRENDA WEKSLER**
22 **UNITED STATES MAGISTRATE JUDGE**

CERTIFICATE OF SERVICE

I hereby certify, that on the 14th day of March, 2023, I e-served a true and correct copy of the foregoing document pursuant to the U.S. District Court CM/ECF system to the individuals identified in the Order.

/s/ Sonya Williams

Employee of the Eric Roy Law Firm

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